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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

13 **KIMBERLY SCHURK**
14 **8833 E Calle Buena Vista**
Scottsdale, AZ 85255

15 Respondent.

Case No. 2011-965

STATEMENT OF ISSUES

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
20 in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 **Application for Licensure by Endorsement**

23 2. On or about June 14, 2010, the Board, Department of Consumer Affairs, received an
24 Application for Licensure by Endorsement from Kimberly Schurk ("Respondent"). On or about
25 May 20, 2010, Kimberly Schurk certified under penalty of perjury to the truthfulness of all
26 statements, answers, and representations in the application. The Board denied the application on
27 November 4, 2010.

STATUTORY PROVISIONS

3. Section 2736 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

4. Code section 480 states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

...

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

5. Code section 2761, states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to the following:

...

6. Code section 2762, states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...

(b) Use any . . . alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

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1 **CAUSE FOR DENIAL OF APPLICATION**

2 **(Committed Acts Which if Done by a Licentiate Would Constitute**
3 **Cause for Discipline)**

4 7. Respondent's application is subject o denial pursuant to Code sections 2761,
5 subdivision (a); 480, subdivision (a)(3); and 2762, subdivision (b) in that Respondent committed
6 acts which if done by a licentiate would constitute cause for discipline:

7 a. On or about February 1, 2008, Respondent was involved in an altercation with her
8 then boyfriend, which led to her arrest for disorderly conduct. At the time of her arrest
9 Respondent blood alcohol content was .33%. Respondent's actions are substantially related to the
10 qualifications, functions, or duties of a registered nurse.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Registered Nursing issue a decision:

- 14 1. Denying the application of Kimberly Schurk for a Registered Nurse License; and,
15 2. Taking such other and further action as deemed necessary and proper.

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17
18 DATED: 6-3-11

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN

Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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